

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/754,947	LEE ET AL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Padmavathi v Baskar	1645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 11/24/03.
2.  The allowed claim(s) is/are 1, 3, 5-16, 19, 21-23, 25-29 and 33-37 have been renumbered as 1-28 respectively.
3.  The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date 4/30/04 .
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

*L. J. Smith*  
LYNETTE R. F. SMITH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

## DETAILED ACTION

1. Applicant's response filed on 10/20/03 and 1/24/03 is acknowledged.

### ***Status of Claims***

2. Claims 1, 3, 5-16, 19, 21, 22, 23, 25-29 and 33-34 are pending in the application.

Claims 1, 3, 21, 22, 25-27, 29 have been amended.

New claims 35-37 have been added.

Therefore, Claims 1, 3, 5-16, 19, 21- 23 , 25-29 and 33-37 are currently under examination.

### ***Rejections withdrawn***

3. In view of amendment to the claims, the rejection of claims 1, 3, 5-16, 19, 21, 22-23, 25-29 and 33-34 under 35U.S.C. 112, second paragraph is withdrawn.

4. In view of amendment to the claims and the DECLARATION OF GUNARS .E VALKIRS UNDER 37 CFR; 1.132 including the AFFIDAVIT from the Office of the General Counsel, Centers for Disease Control and Prevention (CDC), United States Department of Health and Human Services, the rejection of claims 1, 3, 5-16, 19, 21, 2223, 25-29 and 33-34 under 35 U.S.C. 112, first paragraph is withdrawn.

5. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mathew Hinsch on 4/30/04

The application has been amended as follows:

Claim 25 line 1, deleted after claim 22 "33"

Claim 26 line 1, deleted after claim 22 "33"

Claim 27 line 1, deleted after claim 22 "33"

6. The instant claims define ~~kit~~ and a method of specifically detecting a Bacillus anthracis surface array protein SEQ.ID.NO: 1 in a test sample using specific antibodies to SEQ.ID.NO: 1 that do not react with non-anthraxis Bacillus species. This method overcomes the existing problem of cross reactivity with other non anthraxis Bacillus such as B.cereus, B.thuringensis and B.mycoides in antibody based detection methods because the method uses specific antibodies to surface array protein SEQ.ID.NO: 1 of B.anthraxis. Therefore, this is an improved method and is novel for detecting B.anthraxis surface array protein SEQ.ID.NO: 1 in a test sample.

***Remarks***

7. Claims 1, 3, 5-16, 19, 21, 22, 23, 25-29 and 33-37 and are allowed and have been renumbered as 1-28 respectively.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Padma Baskar Ph.D., whose telephone number is ((571) 272-0853. A

message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 6.30 a.m. to 4.00 p.m. except First Friday of each bi-week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on (571) 272-0864. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Padma Baskar Ph.D.

4/30/04